

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Horton Analyst: Darrine Distefano Bill Number: AB 1666
Related Bills: See Legislative History Telephone: 845-6458 Amended Date: 06-29 -2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: BOE May Create Tobacco Tax Compliance Task Force That Shall Include Personnel From FTB

SUMMARY

This bill would allow the State Board of Equalization (BOE) to:

- Create a Tobacco Tax Compliance Task Force that would include personnel from the Franchise Tax Board (FTB), and
- Administer a statewide tobacco license program to regulate the sale of cigarette and tobacco products in California.

This analysis does not address the bill's provisions regarding the cigarette tax and the licensing of cigarette or tobacco products, as they do not impact FTB.

SUMMARY OF AMENDMENTS

The June 29, 2002, amendments deleted the provisions of the Probate Code and Welfare and Institutions Code and added provisions under the Business and Professions Code (B&PC), Penal Code, and the Revenue and Taxation Code (R&TC).

This is the department's first analysis of the bill.

PURPOSE OF THE BILL

The purpose of this bill is to address illegal sales of untaxed cigarettes, retrieve money lost due to smuggling and counterfeiting (tax stamps), and create a uniform statewide licensure of tobacco manufacturers, distributors, and retailers necessary to assist the BOE in addressing these issues.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

POSITION

Pending.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

Department Director

Date

Gerald H. Goldberg

8/7/02

ANALYSIS

FEDERAL/STATE LAW

Under federal law, the Federal Trade Commission regulates the trade, labeling, and advertising of cigarette and tobacco products.

Under state law, the BOE administers and collects tax on cigarette and tobacco products.

THIS BILL

This bill would allow BOE to create a Tobacco Tax Compliance Task Force that would be limited to the personnel from:

- BOE
- The Office of the Attorney General
- FTB
- The Department of Alcoholic Beverage Control
- Federal agencies necessary to coordinate programs to combat tobacco tax evasion, smuggling, and counterfeiting.

This bill would create the Tobacco Licensing Act of 2002 in the B&PC. This bill would help the state monitor tobacco sales, insure compliance with tobacco tax and control laws, provide uniform standards, and prevent illegal sales.

This bill would give peace officer authority to employees of the Investigations Division of the BOE who are enforcing the laws administered by the BOE.

IMPLEMENTATION CONSIDERATIONS

The bill does not prescribe the responsibilities or duties of the task force. If FTB personnel were selected for the task force, it is unclear if the personnel would serve in a civil or peace officer capacity. The author may wish to outline the responsibilities and roles of the task force and the duties of each member from each agency that would participate. The department may require additional personnel years (PYs) to participate, depending on the assigned duties and responsibilities.

LEGISLATIVE HISTORY

AB 1906 (Brewer, Stats. 1998, Ch. 463) required the California Attorney General to appoint an Electronic Recordation Task Force consisting of voluntary representatives from governmental agencies and industry groups including county recorders, county district attorneys, FTB, Fannie Mae, the Internal Revenue Service, trustees, mortgage bankers, financial institutions, and the title insurance and real estate industries.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and New York provide similar laws for the regulation and taxation of cigarette and tobacco products. It does not appear that these states have a task force to assist with the enforcement of these laws.

The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

Since it is unclear what would be required of FTB personnel participating in the task force, departmental costs cannot be determined.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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